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AN ACT

MAKING

PROVISION FOR ORGANIZING AND MAINTAINING COMMON SCHOOLS.

AN ACT making provision for organizing and maintaining Common Schools.

In force July
1, 1841.

SEC. 1. *Be it enacted by the People of the State of Illinois, re-
ented in the General Assembly, That for the purpose of*
blishing and sustaining common schools throughout the
e, and taking care of and using the resources of the State
for purposes of education, the following sections and
visions shall take effect as the law of this State, on the
day of July next:

FIRST DIVISION.

Common School lands—their protection and preservation.

SEC. 2. That section number sixteen in every township
nted to the State, by the United States, for the use of the
bitants of the townships for the use of schools, and such
ions and parts of sections as have been or may be grant-
s aforesaid, in lieu of section sixteen, and also the lands
ch have been or may be selected and granted as afore-
, for the use of the inhabitants of fractional townships in
ch there are no section numbered sixteen, or such section
l not contain the proper proportion for the use of schools
uch fractional townships, shall be held and considered as
mon school lands, and the provisions of this act referring
ommon school lands, shall be deemed to include and ap-
to the lands aforesaid.

School lands

SEC. 3. The said common school lands shall be under the
eral superintendence and care
of the several counties in which
thereof may be situated, ar
ly in two or more counties, the
ur as relates to the common school lands, shal
d in that county which contain
said lands.

Lands under
superintention of

Appointment
of trustees

SEC. 4. The county commissioners' court in each county, shall, as soon as may be after the passage of this act, appoint three trustees in each township, to be called the "Trustees of School Lands" of said township, who shall be inhabitants and legal voters of the township, and whose appointment shall continue for four years, and until successors are appointed and qualified.

Trustees, body politic

SEC. 5. The said trustees shall be a body politic and corporate, and may sue and be sued by the name and description aforesaid; the said trustees before entering upon the duties of their appointments, shall take an oath before some officer authorized to administer the same, well, and truly and faithfully to execute the duties of trustees of school lands, according to law, agreeably to the best of their judgment and understanding.

Powers.

SEC. 6. The said trustees shall be vested with the following powers, viz: to appoint a treasurer and require him to perform the duties of clerk, and such other duties as may be imposed by law, or any order of the trustees; to receive by deed or otherwise, and hold for the use of any school or schools in the township, any real estate, personal property, or money, which may be conveyed or delivered to them for the uses aforesaid.

Treasurer to
give bond

SEC. 7. Every treasurer appointed under the provisions of the foregoing section, shall, before entering upon the duties of his appointment, execute a bond with good security, payable to the said trustees by their corporate name, in a penalty to be fixed by the trustees, conditioned that he will faithfully discharge all the duties of his appointment according to the laws now or hereafter to be in force; the security shall be approved by the trustees, and the bond shall be deposited with and kept by the school commissioner of the county, and for any breach in the conditions thereof, an action may be maintained against the obligors jointly or severally, and recoveries may be had thereon until the whole penalty shall be recovered.

Action against

All monies to
be paid to
school com'rs.

SEC. 8. The trustees shall cause all monies collected or obtained for rents, or recovered for trespasses, or which may otherwise come to their hands for the use of the township to be paid over to the school commissioners of their respective counties, to be applied to the support of schools as hereinafter required.

Trustees to
make report

SEC. 9. The trustees shall render an account of their receipts and disbursements annually, to the county commissioners' courts of their respective counties, and on failure to do so shall be liable jointly and severally out of their own estates for all monies which may come to their possession, and joint or several actions may be maintained in the corporate name of the township, for the recovery thereof; such action to be brought under the direction of the county commission-

Trespassing upon Common School Lands.

43
36
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SEC. 10. If any person shall, without being authorized, cut, fell, box, bore, destroy or carry away any black or white walnut; black, white, yellow or red oak; white wood, poplar, wild cherry, blue ash, yellow or black locust, chesnut, coffee, or sugar tree, or sapling standing, growing, or lying upon any common school land, such person shall forfeit and pay for every tree so cut, felled, boxed, bored, or carried away, the sum of eight dollars; and if any person shall, without authority as aforesaid, cut, fell, box, bore, destroy or carry away any tree or sapling not herein above enumerated, standing, growing or lying upon any common school lands as aforesaid, such person shall forfeit and pay for every such tree or sapling so cut, felled, boxed, bored, destroyed or carried away, the sum of three dollars, and the penalties aforesaid shall be recoverable with costs of suit, by action of debt or assumpsit, either in the corporate name of the trustees of school lands of the township to which the land belongs, or by action *quiltam*, in the name of any person who will first sue for the same, one half for the use of the person suing, and the other half for the use of the township aforesaid. When two or more persons shall be engaged or concerned in the same trespass, they shall be jointly and severally liable for the penalties herein imposed.

Trespass on
landsFines how re-
covered

SEC. 11. Every trespasser upon common school lands shall be liable to indictment, and upon conviction, to be fined in not less than three nor more than six times the amount of injury occasioned by such trespass, and shall stand committed as in other cases of misdemeanors; all fines imposed under the provisions of this section, shall be paid to the school commissioner of the county, for the use of the township injured.

Indictment
for trespassApplication
of fines

SECOND DIVISION.

Election of School Commissioners, and sales of Common School Lands.

SEC. 12. On the first Monday in August next, and on the same day every two years thereafter, there shall be elected by the qualified voters of each and every county in the State, a school commissioner for the said county, who shall be authorized to execute and perform the duties herein required, he shall, before entering upon his duties, execute a bond payable to the people of the State of Illinois, with two or more responsible freeholders as security, to be approved of by the county commissioners' court, in a penalty of not less than twelve thousand dollars, and with such increase as the court may direct, having regard to the nature and extent of duties and responsibilities, conditioned that he will faithfully

Election of
school com'r

To give bond

perform all the duties of the office of school commissioner for the said county, according to the laws now, or which may hereafter be in force, by which bond the obligors shall be bound jointly and severally for the performance of the conditions thereof, and upon which an action or actions may be maintained for the use of any township or fund injured by any breach thereof, and joint actions may be maintained to the use of two or more funds.

Election and returns of com'r **SEC. 13.** The election provided for in the foregoing section, shall be held and the returns thereof shall be made in connection with the election of county commissioners, and all contests in relation to said election, shall be decided as in the cases of contested elections for the office of sheriff or coroner.

Vacancies how filled **SEC. 14.** When any vacancy shall occur in the office of school commissioner of any county, the county commissioners' court of such county shall appoint some competent person to fill the vacancy until the election and qualification of another person, the person so appointed, shall give bond with security as is required of persons elected to said office: *Provided, however,* That when a vacancy occurs within twelve months of the time of the biennial election provided for in this act, the person appointed shall continue in office until such election, and the qualification of the person elected.

Term of office **SEC. 15.** When any such vacancy shall occur more than twelve months previous to the time provided for the biennial election, the vacancy shall be filled by election as is provided in cases of vacancies in the office of county commissioners.

Vacancies 1 year before election **SEC. 16.** The said commissioner shall make sale of the common school lands held for the use of each township in his county; upon the terms, and in the manner required by law. He shall loan the funds of the township, apply the interest accruing upon township funds to the support of schools, and perform such other duties as may from time to time be required of him; said commissioner shall also attend to the collection of all demands in favor of the several townships in their counties, and to the settlement of the accounts of trustees, and whenever necessary to the prosecution of suits for the recovery of demands in favor of townships, and all monies collected shall be faithfully applied, and used as required by law.

Sal: of lands **SEC. 17.** The said commissioner shall execute a new bond annually, conditioned as required in the first bond, but the execution of a new bond shall not release or impair the liability upon the former bond existing at, and before the delivery of the new one.

Township funds **SEC. 18.** The said commissioner shall be subject to removal by the county commissioners' court for misapplication of the funds, failure to make reports as required by law without

Com'r to give bond annually

Com'r may be removed

a reasonable excuse, failure to execute bond with good security as required by law, or for any other palpable violation of law or omission of duty.

SEC. 19. If at any time the county commissioners' court shall have reason to believe that the security of the school commissioner is insufficient, by reason of insolvency or otherwise, said court shall require the commissioner to execute another bond with additional security, in such penalty as shall be deemed sufficient, conditioned as the first bond, and upon failure to give such security the commissioner may be removed from office; the execution of a new bond shall not affect the old one, or the liability of the security thereon. Additional bond

SEC. 20. The said commissioner shall provide well bound books for the following purposes: *First.* A book in which he shall record at length all petitions presented to him for the sale of common school lands, and the plats and certificates of valuation made by or under the direction of the trustees of school lands, and all the affidavits in relation to the same. Books for record
Second. A book in which he shall keep a list of all sales of school lands, which list shall contain the date of sale, names of purchasers, quantity and description of lands sold, and the sum sold for. Record of sale of land, &c.
Third. A book in which he shall keep a regular account of money received and paid or loaned out. *And fourth,* A book in which he shall keep a statement of money loaned, showing the date of each loan, the person to whom loaned, the time for which the loan was made, the rate of interest, names of securities when personal security is given, or in case of real estate, a description of the same, which books shall be paid for out of the county treasuries of the counties in which they are used; the accounts of each township and fund, shall be kept separate, as well as the list of sales.

SEC. 21. When the inhabitants of any township shall desire the sale of the common school lands of the township, they shall present a petition to the school commissioner of their county, requesting a sale thereof, which petition shall be signed by at least two-thirds of the white male inhabitants of the township, over twenty-one years of age. The signing of the petition must be freely and voluntary, in the presence of two citizens of the township, after the true intent and meaning thereof shall have been made known and explained to each petitioner; when the petition shall have been so signed, an affidavit shall be endorsed thereon, or thereto attached, by the two citizens in whose presence the same was signed, proving the signing in the manner aforesaid, and the said petition with the affidavits aforesaid, shall be delivered to the commissioner for his action thereon: *Provided, That* Petition for sale
 no sale shall be made of any whole section of school lands, unless the township to which it belongs contains at least fifty inhabitants. Proviso

Affidavit of
inhabitants

SEC. 22. When a petition shall be presented to a school commissioner for the sale of common school lands as provided for in the preceding section, he shall be authorized to receive the affidavits of reputable citizens of the township as to the number of white male inhabitants over twenty-one years of age, and if it shall appear from such affidavits that two-thirds of the whole number have signed the petition, the commissioner shall proceed to sell the lands as herein required.

Lands of frac-
tional town-
ships may be
sold.

SEC. 23. School lands granted and held for the use of fractional townships, may be sold when the number of inhabitants in such fractional township shall bear as large a proportion to the quantity of school lands granted, as the number of fifty bears to an entire section of land.

Subdivision of
lands.

SEC. 24. When the requisite petition and affidavits have been furnished to authorize a sale of common school land, the school commissioner shall notify the trustees of school lands thereof, and said trustees shall immediately proceed to subdivide the said lands into tracts or lots, in such form and quantity as will best suit purchasers, and produce the largest amount of money; and after making such subdivision, a correct plat of the same shall be made, representing the whole land, and the divisions thereof, with each lot numbered and marked, so as to enable purchasers to identify the same, and so as to perpetuate the boundaries thereof. The trustees shall then fix a value upon each lot; having regard to the terms of sale, and attach to the plat a certificate verifying the correctness of the plat (stating the value of each lot per acre, or by the lot in case the lot contains a less quantity than one acre) and referring to and describing the lots in the certificate, so as to fully and clearly distinguish and identify each lot; which plat and certificate shall be delivered to the school commissioner, and shall govern him in advertising and selling said lands.

Valuation.

SEC. 25. In subdividing common school lands for sale, no lot shall contain more than eighty acres, and the division may be made into town or village lots, and streets, alleys, and roads, may be laid out by the trustees through any of such lands, for the public accommodation, and such streets, alleys and roads, being marked and laid down upon the plat of the land, shall be sufficient evidence of the dedication thereof; and where common school lands have heretofore been divided into lots, with streets, alleys and roads passing through the same, such division shall be deemed legal, and the streets, alleys and roads so laid out are hereby declared public highways.

No lot more
than 80 acres.

Laid out in
lots & streets.

Streets public
highways.

Terms of sale
of lands.

SEC. 26. The terms of selling common school lands shall be to the highest bidder for cash, with the privilege to each purchaser to borrow the amount of his bid for any period not less than one, nor more than five years, upon his paying interest, and giving security as in the case of money loaned.

SEC. 27. The place of selling common school lands shall be at the court house of the county in which the land is situated, and upon the reception by the school commissioner of the plat and certificate of valuation of school lands from the trustees, he shall proceed to advertise the said land for sale, or lots as divided and laid off by the trustees, by posting notices thereof in at least six public places in the county, forty days previous to the day of sale, describing the land, and stating the time, place and terms of sale; said notice shall also be printed and published four weeks in a newspaper printed in the county where the sale is to be made, if there be any such paper, but if no newspaper is published in the county, the sale shall be made upon posting the notices as aforesaid: *Provided, however,* That notices of such sales may be published in any newspaper having general circulation in the county, if in the opinion of the commissioner, such notice will produce competition in bidding, or enhance the amount of sales.

Lands to be sold at court house.

Advertisement.

Proviso

SEC. 28. The order of sale shall be according to the numbers of the lots, beginning with the lowest number, and proceeding regularly until the whole are sold or offered; no lot shall be sold for less than its valuation by the trustees; sales shall be made between the hours of ten o'clock, A. M. and six o'clock, P. M., and may be continued from day to day until completed; the lots shall be offered separately, and each lot cried a sufficient length of time to enable all who desire to bid. Each purchaser failing to comply with the terms of sale, shall be bound to pay the difference between his bid and the price for which the lot may be sold.

Order of sale.

SEC. 29. Upon the closing the sales on any day, each purchaser shall pay or secure the payment of the purchase money according to the terms of the sale, or in case of his failure to do so by ten o'clock of the succeeding day, the lots purchased shall be again offered for public sale, on the same terms as before, and if the valuation shall be bid, shall be stricken off; but if the valuation is not bid, the lot shall be set down as not sold; if a sale is made, the former purchaser shall be required to pay the difference between the price sold for and his bid; if a sale is not made he shall be required to pay the difference between his bid and the valuation of the lot; and in case of his failure to make such payment, the school commissioner may forthwith institute an action of debt or assumpsit, in favor of the trustees of school lands of the township for whose use the land was sold, for the sum required, and upon making proof of the facts shall be entitled to judgment with cost of suit, and if the amount claimed shall not exceed one hundred dollars the suit may be before a justice of the peace, but if more than that sum the action shall be in the circuit court of any county wherein the party may be found.

When lands considered not sold.

Former purchaser to pay difference.

Act'n against purchaser.

- School lands may be sold at private sale. SEC. 30. All lands not sold at public sales as herein provided for, shall be subject to sale at any time thereafter at valuation, and commissioners are authorized and required to sell all such lands at private sale upon the terms at which they were offered at public sale.
- Record of sales. SEC. 31. Upon the completion of every sale by the purchaser, the school commissioner shall enter the same on his sale book, and shall deliver to the purchaser a certificate of purchase, stating therein the name and residence of the purchaser, describing the land, and stating the price paid therefor, which certificate shall be evidence of the facts therein stated.
- Certificates. SEC. 32. At every regular term of the county commissioners' court, each school commissioner shall present to the court of his county, the following statements: First, A statement shewing the sales of school lands made subsequent to the preceding term of the court, which statement shall be copied from the sale book, and contain all the facts required to be stated in said book. Second: Statements of the amount of money received, and paid, and loaned out, belonging to each township or fund, under his control, the statement of each fund to be separate. Third: Statements copied from his loan book, showing all the facts in relation to lands which are required to be stated in the loan book.
- Statement of sales, &c. SEC. 33. The said commissioner shall also at the times aforesaid, transmit to the Auditor of Public Accounts a full and exact transcript from his sale book, of all the sales made subsequent to each report. The list of sales filed with the county commissioners, shall be filed and preserved, and shall also be copied by the clerk of said court, in a well bound book provided for that purpose, and the list transmitted to the Auditor shall also be filed, preserved, and copied in like manner.
- Certificate of sale. SEC. 34. Every purchaser of common school lands shall be entitled to a patent from the State, conveying and assuring the title. Patents shall be made out by the Auditor from the returns made to him by school commissioners. They shall contain a description of the land granted; shall be in the name of and signed by the Governor, countersigned by the Auditor, with the great seal of State affixed thereto by the Secretary of State, and shall operate to vest in the purchaser a sure, perfect and absolute title in fee simple. When patents are executed as herein required, the Auditor shall note on the list of sales, the date of each patent in such manner as to perpetuate the evidence of its date and delivery, and thereupon transmit the same to the school commissioner of the proper county, to be by him delivered to the patentee or his assigns, upon the return of the original certificate of purchase, which certificate, when returned, shall be filed and preserved by the commissioner.
- List of sales filed. SEC. 35. The Auditor shall, at the expiration of each year, make a list of all the patents granted during the year, and transmit the same to the Governor, who shall file the same in his office, and shall also cause the same to be printed and bound in a book, and shall deliver a copy of the same to the school commissioner of each county, who shall file the same in his office, and shall also cause the same to be printed and bound in a book, and shall deliver a copy of the same to the Auditor.
- Patents for land. SEC. 36. The Auditor shall, at the expiration of each year, make a list of all the patents granted during the year, and transmit the same to the Governor, who shall file the same in his office, and shall also cause the same to be printed and bound in a book, and shall deliver a copy of the same to the school commissioner of each county, who shall file the same in his office, and shall also cause the same to be printed and bound in a book, and shall deliver a copy of the same to the Auditor.
- How executed SEC. 37. The Auditor shall, at the expiration of each year, make a list of all the patents granted during the year, and transmit the same to the Governor, who shall file the same in his office, and shall also cause the same to be printed and bound in a book, and shall deliver a copy of the same to the school commissioner of each county, who shall file the same in his office, and shall also cause the same to be printed and bound in a book, and shall deliver a copy of the same to the Auditor.
- Patents sent to school com. SEC. 38. The Auditor shall, at the expiration of each year, make a list of all the patents granted during the year, and transmit the same to the Governor, who shall file the same in his office, and shall also cause the same to be printed and bound in a book, and shall deliver a copy of the same to the school commissioner of each county, who shall file the same in his office, and shall also cause the same to be printed and bound in a book, and shall deliver a copy of the same to the Auditor.

SEC. 35. Certificates of purchase of school lands may be transferred and assigned by written endorsement thereon, under the hands of the purchaser, and of each assignee, in the same manner as promissory notes, so as absolutely to transfer and vest in each and every assignee successively, all right, title and claim to the land purchased, or such transfers or assignments may be made on a separate paper, in like manner, and with like force and effect; and patents may be issued to any such assignee, upon filing with the Auditor the original certificate and transfers, and making proof of the facts of assignment by the affidavit of one or more credible witnesses, taken before a judge, justice of the peace, notary public, or clerk of a court of record, or a certificate of acknowledgement by the assignor or assignors, before any one of the before named officers.

Certificates of purchase transferable.

SEC. 36. Purchasers of school lands, and their heirs and assigns, may obtain duplicate copies of certificates of purchase and of patents, upon filing affidavits with the Auditor in respect to patents, and with the school commissioner in respect to certificates, proving the loss or destruction of the originals; such copies shall be evidence of the existence of the original.

Duplicate patents how procured.

THIRD DIVISION.

Of the loaning school funds.

SEC. 37. School commissioners shall loan all monies which shall come to their hands in virtue of their offices, (except such interest as may be required to be paid for the support of schools,) upon the following conditions: the rate of interest shall be twelve per centum per annum, payable half yearly in advance, the time for which loans may be made shall be not less than one, nor more than five years; for all sums not exceeding one hundred dollars, loaned for one year, two responsible securities shall be given; for all sums over one hundred dollars, and for all loans for more than one year, security shall be given by mortgage on real estate, unincumbered, in value double the amount loaned, with a condition, that in case additional security shall at any time be required, the same shall be given to the satisfaction of the commissioner for the time being. Notes and mortgages shall be payable to "the school commissioner of the county," without inserting the name of the commissioner, for the use of the township or fund to which the money loaned belongs, and such notes and mortgages shall be valid although the name of the school commissioner be not inserted as payee, and the money may be collected thereon by suit or otherwise in the name of the "school commissioner of the county," for the use stated, without using the name of the commissioner in the prosecution thereof: *Provided, however,* That notes and mort-

Monies loaned at 12 per cent.

Interest to be paid semi-annually.

Term of loans

Proviso.

gages in which the name of the school commissioner is inserted shall be valid to all intents and purposes.

SEC. 38. Mortgages to secure the payment of school funds loaned, may be in the form following:

Form of mortgage.

"I, A. B., of the county of _____ and State of _____ do hereby grant, convey and transfer to the school commissioner of the county of _____ for the use of the inhabitants of township _____ range _____ (or for the use of the county school fund of the county of _____) the following real estate, (here describe the premises,) which real estate I declare to be in mortgage for the payment of \$ _____ loaned to me by the said school commissioner, and all interest that may accrue thereon, to be computed at the rate of twelve per centum per annum until paid; and I hereby covenant to pay the said sum of money _____ years from the date hereof, and to pay interest on the same at the rate aforesaid, half yearly in advance; I further covenant that I have a good title to said estate, and that the same is free from all incumbrances; that I will pay all taxes and assessments which may be levied upon said estate, and if said estate is sold to pay the aforesaid debt or any part thereof, I will deliver immediate possession to the purchaser. Witness my hand and seal, this _____ day of _____ 18. _____ [L. s.]"

Upon the breach of any condition or stipulation contained in said mortgage, an action may be maintained, and damages recovered as upon other covenants, but mortgages made in any other form, to secure the payment of school funds, shall be valid, and the rights and remedies thereon shall be the same as if no form had been prescribed for such mortgages.

Value of lands mortgaged.

SEC. 39. In estimating the value of real estate mortgaged to secure the payment of school funds, the value of improvements liable to be destroyed shall not be included.

When security is not given

SEC. 40. In all cases when the school commissioner shall require additional security for the payment of money loaned, and such security shall not be given, the commissioner may sue for and recover the same, and all interest accruing thereon to the date of judgment: *Provided*, That proof be made of the said requisition, and of the failure to comply with the same.

Shall have preference

SEC. 41. In the payment of debts by executors or administrators, those due to school funds, whether of the State, county or township, shall have a preference over all other debts, except funeral and other expenses attending the last sickness, not including the physicians bill.

What interest in default of payment.

SEC. 42. If default be made in the payment of interest due upon money loaned by any school commissioner, or in the payment of the principal, interest at the rate of twenty per centum per annum shall be charged upon the amount for which the party is, or may be in default, which shall be

included in the assessment of damages, in suits or actions brought upon the note or mortgage to enforce payment thereof, and interest at the rate aforesaid may be recovered in actions brought to recover interest only.

SEC. 43. School commissioners shall keep an interest account with each township, showing the dates and amounts of interest received and paid out, and at the end of every year this account shall be balanced by transferring interest not paid, or liable to be paid out, to the principal, and the interest thus transferred shall always thereafter be regarded and used as principal. Interest acc't.

FOURTH DIVISION.

Organization of Common Schools, and application of interest.

SEC. 44. The interest accruing upon township funds, and all profits arising from the use of township lands, and all rents received, shall be applied to the support and maintenance of common schools, which may be organized and kept according to law. Interest and profits how applied

SEC. 45. Any number of inhabitants of one or more townships may associate themselves together and purchase not exceeding ten acres of land, and cause the same to be conveyed to the trustees of school lands in the township wherein the land is situated, by their corporate name, and place thereon a school house, together with any other buildings which they may deem necessary for the keeping in operation a common school, and for the encouragement of learning and science generally, and the said land and improvements shall be held by the said corporation in perpetuity for the use of the inhabitants associating and purchasing as aforesaid, and their successors and assigns forever, and the same shall not be diverted from the use intended, nor used for any purpose than as shall or may be directed by the persons for whose use the same may be held. Association may purchase land
Lands held in perpetuity

SEC. 46. There may be organized and kept in operation as many common schools in each school district as the inhabitants thereof desire, and every teacher shall be entitled to an equal proportion of the district funds according to the time and number of scholars taught: *Provided*, That no teacher shall be paid more than the amount agreed to be allowed by the employers. Fund to district school.
Proviso

SEC. 47. Whenever a school shall be organized, the employers of the teacher shall meet together at the school house and appoint three of their number as trustees of the school, and they may then agree upon the plan and manner of conducting the school, and vest the trustees with power to attend to the execution of such plan, or they may vest the trustees with power to superintend and direct the conducting and managing said school in such manner as they may deem Appointment of trustees

best for the interest of the school; the trustees shall be appointed within ten days after the school shall have been opened, and their term of service shall continue during the continuance of the school: *Provided*, If the school shall be continued more than one year, trustees shall be elected at the commencement of each succeeding year.

Proviso

Duties of trustees

SEC. 48. Trustees of schools appointed according to the foregoing section, shall attend the school from time to time, and see that the same is properly conducted; that the teacher keeps regular hours; that the school house is properly supplied fuel, and such furniture as may be necessary to the accommodation of the scholars; they shall also have special regard to the keeping of a schedule by the teacher in such manner as to entitle him to compensation out of the school funds.

Teachers to make schedules

SEC. 49. Teachers shall make schedules of the names of all scholars attending their schools in the form prescribed by this act, and when scholars reside in two or more townships, separate schedules shall be kept for each township, and the absence or presence of every scholar shall be set down under the proper date and opposite the name, on every day that the school is open; the absence of a scholar shall be signified by the letter A, and the presence by the letter P.

SEC. 50. The schedule to be made and returned by the teacher, shall be, as near as circumstances will permit, in the following form, viz:

Form of schedule

SCHEDULE of a common school kept by A. B. at (here describe the location of the house in which the school is kept) in township sixteen north, range five west, of the third principal meridian, in the county of (Sangamon,) and State of Illinois.

Names of scholars residing in township sixteen north, range five west.			1841.
John Jones.	P	A	Monday, January 4.
	P	A	Tuesday, January 5.
James Jones.	P	A	Wednesday, January 6.
	P	P	Thursday, January 7.
	P	P	Friday, January 8.
	P	P	Monday, January 11.
	P	P	Tuesday, January 12.
	P	P	Wednesday, January 13.
	P	P	Thursday, January 14.
	P	A	Friday, January 15.
	P	P	Monday, January 18.
	P	P	Tuesday, January 19.
	P	P	Wednesday, January 20.
	P	P	Thursday, January 21.
	P	P	Friday, January 22.
	P	P	Monday, January 25.
	P	P	Tuesday, January 26.
	P	P	Wednesday, January 27.
	P	P	Thursday, January 28.
	P	P	Friday, January 29.
	20	16	Total.
Grand total,			36

Certificate of
teacher

SEC. 51. The teachers shall certify to the correctness of the schedule. This certificate shall be as near as circumstances will permit, in the following form: "I certify that the foregoing schedule of the names of the scholars therein named, residing in township range is correct. Given under my hand this day of in the year of our Lord one thousand eight hundred and J. K., Teacher."

SEC. 52. The form of certificate to be added by the trustees, shall be, as near as circumstances will permit, in the following form, to-wit:

Form of certificate of trustees.

STATE OF ILLINOIS, }
County of }

We certify that at a meeting of the employers of A. B., the above named Teacher, held at pursuant to notice on the day of in the year we were duly appointed trustees of said school, that we have performed the duties of such trustees by visiting said school, and superintending the same; that we have examined the foregoing schedule, and find the same to be correct; that the scholars named therein were at the dates of their attendance, residents of township sixteen north, range five west of the third principal meridian, and that there is due to said teacher for instructing the scholars named in said schedule at the times therein mentioned, the sum of dollars and cents. Witness our hands and seals this day of 184 .

C. D. } Trustees
E. F. } of said
G. H. } school.

Close of schedules by teachers.

SEC. 53. In closing schedules by teachers, they shall make a list of the names of the scholars attending the school in each district, then add together the number of days which each scholar has attended the schools, and set down the total number of days opposite the names of such scholars, he shall then add together their several amounts, and set down the total number at the bottom of the schedule; and when schedules are thus closed, teachers shall certify to the correctness thereof; and the trustees of the school shall carefully examine such schedules, and after correcting any errors which they may discover, they shall make a certificate thereon, in which they shall state that they are trustees of the school, that they have, to the best of their skill and understanding attended to the duties of trustees, that they have examined said schedules, and believe them to be correct, and to have been faithfully kept. They shall also state the compensation agreed to be paid the teacher by the employers, and the amount due such teacher.

Township fund, how payable.

SEC. 54. The township funds, subject to be used in paying teachers, shall be paid out half yearly, (viz:) on the second

Mondays of January and July, and schedules of schools shall be made so as to include the last days of December and June, and such period of time previous to those days, not exceeding six months, as schools may have been kept in operation.

SEC. 55. In townships not incorporated, the schedules of schools made and certified as herein required shall be presented to the school commissioner of the county on or before the first Mondays in January and July in each year, and said commissioners shall, as soon as may be, make an apportionment of the funds of each district subject to distribution, among the teachers thereof according to the number of scholars and number of days taught by each teacher, and pay the same to the teachers, or to the trustees of the school, for the use of the teacher, or when the teacher has been paid by the employers, the trustees shall receive the money for the use of the employers. Schedules of schools not incorporated.

SEC. 56. The employers of the teachers shall agree upon the compensation to be allowed, and shall severally be bound to pay their due proportions of the same; but in making distribution, or dividends of school funds among teachers, the same rate of compensation shall be allowed to each. Employers of teachers bound.

SEC. 57. When from any cause the trustees of a school shall fail, neglect or refuse to certify to the correctness of a schedule kept by any teacher, five of the employers of the teacher may make the certificate required to be made by the trustees. Trustees failing to certify schedules.

FIFTH DIVISION.

Incorporation of townships.

SEC. 58. The inhabitants of any congressional township in the State may become incorporated for the purpose of organizing and supporting common schools, and the trustees of school lands appointed by the commissioners' courts, shall, so soon as the school lands of the township have been offered for sale, cause elections to be held in their respective townships to enable the inhabitants to decide for or against being incorporated under the provisions of this act; the time and place of the election shall be appointed by the said trustees, and notice shall be given by posting advertisements thereof at six of the most public places in the township, at least twenty days before the day of election, and if there be a newspaper published in the township, said advertisement shall be published in at least three numbers of said paper before the election. The trustees shall attend the election, and conduct the same, two of them acting as judges, and one as clerk. A poll book shall be opened with appropriate heading and columns, the names of the voters shall be taken down, and their votes for or against the incorporation of the township, set down in the proper column, so as to show how they voted. Every Townships may be incorporated.

inhabitant of the township, who, at the time of the election would have the right to vote for a representative to the General Assembly, shall be entitled to vote; the vote shall be taken *viva voce*. The poll shall be opened by nine o'clock in the morning, and shall not be closed until five o'clock in the evening, and if all the votes shall not have been taken by five o'clock in the evening the poll shall be continued open until all the votes are taken; and when the votes are all taken, the said trustees shall carefully add up the columns and ascertain and publish the result. They shall also verify the correctness of the poll book, by their certificate thereon endorsed and signed; and if it shall appear from the said election that a majority of all the legal votes given are in favor of being incorporated, the said trustees shall appoint the time and place for holding an election for trustees of said township, but if such majority does not appear from said election, no farther proceedings shall be had by the trustees, but the business of the township shall remain as though no election had taken place.

When subsequent elections shall be held. SEC. 59. Elections shall be held as required in the foregoing section, previous to the lands in the township being offered for sale, upon the written request of ten legal voters of the township, and if, at any election held for the purpose of deciding upon the question of incorporation, the majority shall not vote in favor of being incorporated, subsequent elections shall be held upon the written request of twenty legal voters of the township, and the provisions of the foregoing section shall be pursued at every such election.

Judges of election may be appointed. SEC. 60. In case any one or more of the trustees shall fail to attend any election, held under the foregoing sections, the one or more in attendance, shall select from the freeholders and voters of the township, one or more persons to act in the place of those absent, and in case no one of the trustees attend, then three freeholders and voters of the township shall be selected by the voters present to act as trustees during the election; and persons selected as aforesaid shall perform the duties required of the trustees, and the proceedings shall be as valid as if had, or done under the direction of the trustees.

Election trustees. SEC. 61. When the inhabitants of a township shall have decided in favor of being incorporated, they shall elect five trustees to superintend the business and affairs of the township in relation to schools and education. The trustees shall be legal voters and freeholders of the township, and if there be time, in the opinion of the trustees superintending the election, for the election of trustees to be held on the same day that the vote is taken upon the question of being incorporated, an election shall be held by the said trustees on the said day, for five trustees as aforesaid, and the vote shall be taken *viva voce*, and the persons having the highest number of votes, shall be elected; but in case there shall not be time to hold said election of trustees at the time aforesaid, the trustees shall hold said election within ten days thereafter, and shall give at least

five days notice of said election, by posting notices thereof in at least four public places in the township.

Powers and duties of Trustees of Schools.

SEC. 62. The five trustees elected under the provisions of Powers of the foregoing sections, shall be successors to the trustees of school lands, and shall have and exercise all the rights and powers, and duties of trustees of school lands; they shall be styled and known in law as "Trustees of Schools" of the township in which they are elected; and all rights of property, and rights and causes of action existing, or vested in the trustees of the school lands, for the use of the inhabitants of the township, or any part of them, shall vest in the "Trustees of Schools" as successors; and the said township shall, upon the election of trustees as aforesaid, be a body corporate and politic, by the name and style of "trustees of schools of township range ,," according to the numbers, and the corporation shall have perpetual existence, and have the power to sue and be sued, plead and be impleaded, in all courts and places where judicial proceedings is or may be had or allowed; said trustees shall continue in office two years, and until others are elected and enter upon their duties.

SEC. 63. Upon the election of trustees of schools, the trustees of school lands or the persons under whose superintendence the election was held, shall deliver to the school commissioner of the county, the poll books of both elections held by them, with a certificate showing the election of trustees, and the names of persons elected, which poll books with the certificates thereon shall be preserved, and shall be evidence of the incorporation of the township, as well as of the election of trustees.

SEC. 64. In townships incorporated as aforesaid, elections shall be held every two years for the five trustees of schools, and at each election after the first, the trustees in office shall appoint the time and place of holding the same, and two of the body shall act as judges, and one as clerk of such election, and notice of the time and place of the election shall be given by the treasurer, by posting notices thereof in four of the most public places in the township, at least twenty days before the day of election, and the poll books of such elections, with certificates of election endorsed, shall be returned to the school commissioner of the county as required in relation to the first election.

SEC. 65. If any vacancy shall occur in the office of school trustee in any township in this State, it shall be the duty of the treasurer of the township to give notice to the legal voters of the township by posting up written notices in three of the most public places in the township, that an election will be held to fill such vacancy; said notice shall be put up at least two weeks before the day fixed for such election, the said no-

tice to designate the time when, and place where such election will be held.

Township,
how laid off.

SEC. 66. Trustees of schools shall have a general superintendence over all schools kept in the township; they shall have power to lay off the township into school districts, suited to the wishes, and convenience of a majority of the inhabitants in each district, distinctly describing the same by boundaries and name or number. To purchase libraries for the use of schools, to provide for the protection and safe keeping of all funds, and property of the township; to adopt by-laws directing the mode of conducting schools, and defining and regulating the powers and duties of all officers and agents of the corporation; and also, to call meetings of the voters of the township, or of any school district therein, for the purpose of acting upon any question, or subject relating to schools, or the cause of education in the township.

By-laws.

Quarterly
meeting
trustees.

SEC. 67. The said trustees shall meet quarterly at some convenient place in the township for the transaction of business, at which meetings a majority shall form a quorum.

Treasurer to
keep journal.

SEC. 68. The said trustees shall, at their first meeting, appoint some competent and qualified voter of the township as treasurer of the board, whose duties shall be to keep a fair and regular journal of the proceedings, actings and doings of the trustees; recording at length all by-laws and any resolution adopted; to act as clerk of any meeting of the voters of the township, and record all the proceedings of such meetings; to receive and take care of, according to law, all the funds of the township, to loan the funds of the township, and pay out the interest for the support of schools; to keep regular accounts of the funds of the township, and to perform such other duties as may be prescribed by law, or required by the trustees. The treasurer shall continue in office, until the expiration of the time of service of the trustees by whom he was appointed, and until the appointment of a successor; but shall be subject to removal by the trustees at any time for any improper conduct.

Term of office

Treasurer to
give bond.

SEC. 69. Every treasurer appointed as aforesaid shall, before entering upon his duties execute a bond with two or more freeholders as security, payable to the trustees of schools of the township for which he was appointed treasurer, in a sufficient penalty to cover all liabilities which may be incurred, conditioned "that he will faithfully perform all the duties of treasurer of the trustees of schools in township, range, according to the laws now, or which may hereafter be in force." The security shall be approved by the trustees of schools; and the bond shall be filed with, and kept by the school commissioner of the county; and every treasurer appointed subsequent to the first, as herein provided, shall execute bond with security, as is required of the first treasurer.

When treasurer shall receive monies &c.

SEC. 70. Whenever a township shall have become incorporated, and the bond of the treasurer approved and delivered to the school commissioner, the said treasurer shall receive

from the school commissioner, all money in his hands belonging to the township; also, all bonds, mortgages, notes, and securities of every description, for money or property due, or to become due the township; and all papers of every description belonging or in anywise pertaining to the rights or interests of the said township, and the receipt of such treasurer to the school commissioner shall be carefully preserved, and shall be in evidence of the facts therein stated, as well in favor of the school commissioner, as against the treasurer.

Loaning Township Funds.

SEC. 71. Every treasurer of a township shall provide him-
 self with two well bound books, one to be called a cash book Treasurer to provide books and the other a loan book; he shall charge himself in the cash book with all money received, stating in the charge, from whom, on what account the same was received, and credit himself with all money paid, and loaned; stating in the credit to whom paid and on what account, or if loaned, to whom. He shall enter in the loan book, the name of every person to whom money is loaned; the amount loaned, the date of the loan, the rate of interest, the time when payable, the names of the securities, or if real estate be taken, a description of the same. He shall also provide a book, in which he shall record the actings and proceedings of the trustees and the proceedings of the inhabitants of the township when assembled in public meetings; which books shall at all times be subject to the examination and inspection of the trustees, and of any committee appointed by the inhabitants of the township to examine the same.

SEC. 72. In loaning township funds, and taking security Treasurer to loan funds. therefor, treasurers shall be governed by the law prescribing and regulating the duties of school commissioner in relation to loans, and the rights and liabilities of persons borrowing money from treasurers, shall be the same as though the money had been borrowed of the school commissioners; notes, bonds, mortgages, and other securities taken for money or property due or to become due trustees of schools for the use of townships, shall be payable to the said trustees of schools, by the corporate name, and in such name, suits, actions and complaints, and every description of legal proceedings may be had for the recovery of money, the breach of contracts, and for every legal liability, which may at any time arise or exist, upon which a right of action may accrue, to the use of the corporation.

SEC. 73. The funds of townships shall be kept loaned at Funds kept loaned. interest by the treasurers, and the interest arising from the funds shall be used under the direction of the trustees in paying teachers of schools; but whenever money is paid to the treasurer, it shall be forthwith loaned, whether it consists of Interest, how disposed of. interest or principal, unless the interest shall be required for the use of teachers, within twenty days from the date of its reception, in which case it shall be retained for such use.

Interest account.

SEC. 74. Treasurers shall keep a separate account of interest received and loaned out, and if, at the end of any year, the whole interest shall not have been applied to the support of schools, the amount not applied shall be added to the principal, and shall always thereafter be considered in all respects as principal.

Quarterly statement.

SEC. 75. At any [every] quarterly meeting of the trustees the treasurer shall exhibit to them a statement of the condition of the funds of the township; and an examination shall be made of the cash and loan book, and interest account; and of the notes, mortgages, and all securities and papers pertaining to the business or funds of the corporation.

Statement of interest.

SEC. 76. On the first days of July and January, of every year, or if that day shall be the Sabbath, on the succeeding day, the treasurers shall state the interest account, so as to ascertain the amount of interest then due on the funds; and the amount so found to be due shall be subject to distribution, for the support of schools; and if the treasurer shall not have the amount on hand, the same shall be paid out of the first moneys received. The trustees shall attend on the said days, and assist in making said interest account, and see that it is correctly made.

Funds subject to distribution

When treasurer resigns.

SEC. 77. When a treasurer shall resign or be removed or superseded in office, he shall pay over to his successor all money on hand, or which ought to be on hand, and deliver over all the books, notes, bonds, mortgages, and all other securities for money, and all other papers, books and documents of every description to the township, or in which the corporation may have any interest whatever. And in case of the death of a treasurer, his securities and legal representatives shall be bound to comply with the foregoing provisions of this section.

Securities of treasurer bound.

Organization of common schools.

SEC. 78. The mode of organizing and keeping in operation common schools in townships incorporated, the appointment of trustees for each school, the keeping and certifying schedules, shall be the same as is provided for in townships not incorporated, except that the schedules of schools shall be returned to the treasurers of townships, instead of the school commissioner of the county.

Abstract of schools made by treasurer used by trustees in distributing funds.

SEC. 79. Treasurers of townships shall, before the second Mondays in January and July of every year, make abstracts from all the schedules of schools returned to them, showing the name of each teacher, the total number of scholars attending each school, and the total number of days taught by each teacher, to be used by the trustees in dividing the school funds.

Annual meeting of inhabitants.

SEC. 80. The trustees of schools shall call a meeting of the inhabitants of every township incorporated under the provisions of this act, once in every year, for the purpose of exhibiting statements of the condition of the school funds of the township, and giving information concerning the state of the schools, and of the measures adopted by the trustees in the

execution and performance of their duties. Notices shall be given of those meetings as in the case of elections for trustees; and at every such meeting the legal voters of the township may adopt such resolutions and prescribe such rules and regulations concerning the duties of trustees and the organizing and supporting common schools, as may be deemed necessary to an efficient organization and economical support of common schools.

Notice of meetings.

Teachers of Schools, and their qualifications.

SEC. 81. The "Trustees of Schools," in incorporated townships, and "School Trustees," in townships not incorporated, shall have power, and it shall be their duty, on application to them for that purpose, to examine any person proposing to teach a school in their vicinity, in relation to the qualifications of such person as a teacher; and they may call to their assistance such person or persons as they may deem qualified to conduct such examination; or may, in their discretion, appoint a board of examiners for said purpose, to consist of not less than three nor more than five persons, and to continue in office until the next appointment of trustees. A majority of the trustees or the board of examiners being satisfied that the applicant possesses the requisite qualifications, shall give a certificate to that effect, stating the particular branches of science which they find him qualified to teach. And no teacher shall be entitled to receive any compensation from the school fund until he shall have been examined and received a certificate of qualification, as herein provided.

Examination of teachers.

Examiners.

Certificate to teacher.

Shall not receive pay until examined.

Compensation of School Commissioners, Treasurers and Trustees.

SEC. 82. School commissioners shall be allowed and paid, out of the township funds, for their services in receiving and recording petitions for the sale of school lands, advertising, selling, making reports, taking security for the purchase money, or loaning the purchase money, in case it is paid, three per cent. upon the amount of sales: For receiving money which has been loaned and re-loaning the same, two per cent. upon the amount reloaned; and two per cent. upon the amount of all sums distributed and paid to teachers or trustees for the support of schools. And the compensation of treasurers of townships shall be the same as that allowed school commissioners for the same services; but the two per cent. for receiving and re-loaning money shall not be allowed unless there has been [an] actual payment and re-loaning to another and different person: *Provided, however,* That trustees of schools shall have the right, and it is made their duty, to reduce the compensation of treasurers, if in their opinion the compensation herein allowed is more than is reasonable, or if the inhabitants of the township, in public meeting, shall request or direct such reduction. Trustees of schools shall not be allowed

Compensation of comm'rs.

Of treasurers.

Proviso.

Pay of trustees. any compensation out of the school funds. Trustees of school lands and their treasurers, in townships not incorporated, shall be allowed a reasonable compensation for their services, to be fixed by the county commissioners' court, and paid, upon the order of said court, out of the funds of the township.

Regulations in relation to liabilities of Officers and Agents, and to frauds.

Liability of officers. SEC. 83. If any school commissioner of a county, trustee of school lands or of schools, treasurer, or any other person entrusted with the care, control, management or disposition of school funds belonging to the State, or to any county, or township, or to any school district, or which may be held for the use of any school, shall convert any such funds, or any portion thereof, to his own use, with intent to defraud the State, county, township or school, out of the same, he shall be liable to indictment, and, upon conviction, shall be fined in not less than double the amount of money converted, and imprisoned in the county jail not less than one nor more than twelve months, in the discretion of the court.

Trustees liable for securities of treasurer. SEC. 84. Trustees of school lands and of schools, shall be liable, jointly and severally, for the sufficiency of securities taken from treasurers; and in cases of judgments against treasurers and their securities, for or on account of any default of such treasurers, on which the money shall not be made, for want of sufficient property whereon to levy executions, actions on the case may be maintained against the trustees, jointly or severally; and the amount not collected on such judgments shall be recovered with costs.

Comm'rs, &c. real estate of, when liable. SEC. 85. The real estate of school commissioners and treasurers and their securities, shall be bound for the satisfaction and payment of all claims and demands against such commissioners and treasurers, as such, from the date of the issuing process against them, in action or suits brought to recover such claims or demands, until satisfaction thereof be made; and no sale or alienation of real estate, by any commissioner, treasurer or security, as aforesaid, shall defeat the lien created by this section; but all and singular such real estate, held, owned or claimed, as aforesaid, shall be liable to be sold, in satisfaction of any judgment which may be obtained in such action or suits.

Lien created not defeated by sale of property.

Common School Fund of the State.

School fund. SEC. 86. The common school fund of the State, shall consist of the amount due from the State, according to a statement and settlement of the account between the State and that fund, under the provisions of the act, entitled "An act to provide for the distribution and application of the interest on the school, college, and seminary funds," approved, on the seventh day of February, one thousand eight hundred and thirty-five;

and of all funds which have been or may be received by the State from the United States, for the use or support of common schools; and, also, of the money added to the common school fund, which was received from the United States, under the act of Congress, providing for a distribution of the surplus revenue of the United States, and which was vested in bank stock, by authority of the State.

SEC. 87. The State shall pay an interest of six per cent. State to pay interest on school fund. per annum, upon the amount of the aforesaid common school fund, which interest shall be paid annually, on the first day of January, and be applied to the support of common schools, as hereinafter provided. The State shall also pay, at the time aforesaid, an interest of six per cent. per annum, upon the amount due the college and seminary funds; which interest shall be loaned to the common school fund, and applied Interest loaned to common school fund. with the interest on the common school funds, as aforesaid.

SEC. 88. On the first Monday in January, in every year, next after taking the census of the State, the Auditor of Public Accounts shall, under the supervision of the commissioners of the school fund of the State, ascertain the number of inhabitants in each county in the State, twenty years of age and under; and shall thereupon make a dividend to each county, of the interest due upon the school, college and seminary funds, in proportion to the number of persons in each county, of the age aforesaid, and issue his warrants to the treasurer for the amount due each county, in favor of the school commissioner or other authorized agent thereof; and dividends shall be made according to the proportions ascertained to be due each county, annually thereafter, until another census shall have been taken, and then apportionments shall be made and continued as aforesaid, according to the last census. Apportionm't of interest.

SEC. 89. The money received by school commissioners, upon Auditor's warrants, issued according to the foregoing section, shall be divided among the several townships and fractional townships in each county, according to the number of white children in each township, under the age of twenty years, agreeable to the following provisions of this act: The money shall be paid to the treasurers of incorporated townships, and to teachers or trustees in townships not incorporated. In cases where teachers have been paid by the employers, the money shall be held for their use; and when the teachers have not been paid by the employers, the money shall be paid by the school commissioners and treasurers directly to the teachers. Payments under this section shall be made at the time the interest on township funds is paid, in January, or so soon thereafter as the funds are obtained from the State Treasurer. Interest apportioned to townships.

SEC. 90. In townships where teachers have been paid the full amount due them, out of the interest on the township funds, the money paid to treasurers, under the foregoing section, shall be added to the principal fund of the township, and be loaned and used as principal forever thereafter. Teachers not paid by employers, to be paid directly by comm'r. When interest to be added to principal.

Distribution of School Funds.

SEC. 91. It shall be the duty of the legal voters within each school district laid off by the trustees, to meet at the school house, or other suitable place, on the first Saturday of October next, or so soon thereafter as the township may be incorporated and districts laid off, and on the first Saturday in October, biennially, thereafter, and elect three persons, householders within the district, to be styled "School Directors," who shall continue in office for the term of two years and until their successors are elected. A majority of the said directors shall constitute a quorum to do business; and the board, when convened, shall have power to select building places, and to provide for the building of school houses, to furnish them with the necessary accommodations, to employ teachers and fix upon their salaries, to visit schools from time to time, and appoint school visitors, and to make all such rules and regulations as may be necessary and proper, and not contrary to the laws of this State.

SEC. 92. It shall be the duty of the school directors of each school district to furnish the treasurer of the proper township, by the first Monday in December next, and by the first Monday in December, biennially, thereafter, with the number of all white children, under the age of twenty years, residing within the said district: *Provided*, That "trustees of school lands," in townships not incorporated, containing not more than one school district, or their treasurer, shall make the enumeration required by this section, and report to the school commissioner, and receive their distributive share of the school, college and seminary funds, according to the provisions of this act: *And provided further*, That no compensation shall be allowed to school directors for any services required to be performed by this act.

SEC. 93. Trustees of school lands, in townships not incorporated, shall lay off their respective townships into school districts; and should no school directors be elected on the first Saturday in October next, they shall immediately appoint three suitable persons, in each school district, who shall have the same powers as school directors in incorporated townships, and be liable to the same penalties. The persons so appointed shall make the enumeration in each district, and report the same to the trustees of school lands, or to their treasurer, and returns shall be made by the trustees or treasurer, to the school commissioner, in the same manner that returns are required to be made by treasurers of incorporated townships.

SEC. 94. The treasurer of each incorporated township in this State shall, on or before the first Monday in January next, and on the first Monday in January, biennially, thereafter, furnish the school commissioner with an abstract, containing the whole number of white children, under the age of twenty years, residing within his township; and the school commis-

sioner shall apportion the interest arising from the school, college and seminary fund, according to the number of children under the age aforesaid, and shall pay over the distributive share belonging to each township to the respective treasurers thereof or other authorized person, annually.

Apportionment of interest to townships.

SEC. 95. The treasurer of each township shall charge himself with the amount of the school, college and seminary fund which he may receive from the school commissioner, for each school district—shall pay to the teachers entitled to the same, their respective portions; and shall credit himself with the amount paid to the teacher or school directors of each district; but no apportionment of money shall be made to any school district, unless a return of the number of white children is made, according to the provisions of the ninety-second section of this act; and it shall be the duty of each treasurer to make and keep a record of the boundaries of each school district within his township, which shall be subject to the inspection of all persons interested.

Duties of treasurers of townships.

SEC. 96. It shall be the duty of treasurers of townships to lay before the trustees of schools, at their semi-annual meetings, in July and January of each year, a record of the returns made by the school directors, according to the ninety-second section of this act, containing the number of all white children, under the age of twenty years, in each school district, within their respective townships; and the trustees shall make the apportionment of the interest and profits arising from the township funds, and the interest arising from the school, college and seminary funds, equally, according to the number of white children, under the age of twenty years, within each school district, respectively.

Returns of schools to be laid before trustees.

SEC. 97. The treasurer of each township, whether incorporated or not, shall keep the accounts of the several school districts in his township separate; but no money shall be paid to teachers, in school districts, unless the directors of such district shall certify to the schedules and number of resident scholars sent to school, and shall also specify the amount actually due to the teacher or the directors; and in case of excess over and above the amount actually due to the teacher or directors of any school district, the same shall be added to and form a part of the school fund of the township. And in all cases, when the inhabitants of any school district shall fail or neglect, for a longer period of time than ten months, in succession, to have a school kept within the limits of their district, the distributive share belonging to the said district shall be added to and form a part of the school fund of the township, and loaned out as other township funds are: *Provided*, That district funds, in the hands of the treasurer, shall be loaned out, for the time being, in the same manner and on the same terms that township funds are.

Accounts of districts kept separate.

Neglect to keep schools for 10 months.

Proviso.

SEC. 98. When two or more schools are kept in any school district, the money belonging to such district shall be

Two or more schools in one district.

paid to the teachers or directors, in proportion to the number of resident scholars attending school, or the school directors shall make such distribution as to them may appear just and equitable.

Portions of districts shall unite for schools

SEC. 99. Whenever the situation of the settlements is such as to make it expedient that a school district shall comprise portions of two or more incorporated townships, such district may be established and its boundaries defined and altered by the concurrent action of the trustees of the several townships in which such school district is comprised.

Parts of districts to receive portion of funds.

SEC. 100. School directors of districts which are composed of parts of two or more counties or townships, shall make returns of the number of white children in each fractional part of said district to the treasurer of the proper township, and shall perform the same duties that are required to be performed by other school directors, and each fractional part of such district shall receive its respective portion of all money arising or pertaining to the county or township to which such fractional part properly belongs.

Directors making false returns.

SEC. 101. School directors, or either of them, failing to make returns of the number of children in their district according to the provisions of this act, or if either of them shall knowingly make a false return, the party offending shall be liable to a penalty of not less than ten, nor more than one hundred dollars, to be recovered before any justice of the peace within the precinct, in the name of the "trustees of schools," and which penalty, when so collected, shall be added to the township fund.

Citizens to have preference.

SEC. 102. In all cases when the township funds can be safely loaned, within the limits of the township, the citizens thereof shall have the preference, and it shall be the duty of the treasurer to loan out the funds to residents of the township in sums not exceeding one hundred dollars: *Provided*, That actual purchasers of school lands may borrow sums over one hundred dollars.

Proviso.

Conveyance of lands.

SEC. 103. In all cases of purchase or donation of land on which to erect school houses, the conveyance shall be made to the trustees of schools, and their successors in office.

Ferries, Public Highways, &c.

Exclusive right.

Proviso.

SEC. 104. That whenever it shall be considered necessary to establish a ferry across any lake, river, creek, or other water course, within the limits or upon the borders of this State, at any point or place where such lake, river, creek or, other water course shall pass through or upon any common school land, or shall form a boundary line of such land, the exclusive right to establish and keep in operation such ferry, shall be in the township or fractional township, for the use of the inhabitants, of which such school lands are or may be held: *Provided*, That where the school lands are bounded by the stream and situated entirely on one side thereof, the ex-

clusive right hereby vested shall only extend to the establishment of a ferry from the side on which the land is situated, but the ferry privilege on both sides may be granted by the proper authorities to the township or fractional township aforesaid.

SEC. 105. If the township or fractional township having the right to establish a ferry according to the foregoing section, shall have been, or be incorporated, then the ferry license shall be granted to the corporation, and all the rights and emoluments pertaining to, or growing out of the license and privilege, shall be enjoyed forever; but if there be no such incorporation, the license should be granted to the trustees of school lands, appointed by the commissioners' courts, to be held by them until the incorporation, when the license and all the ferry rights granted or existing shall vest in the corporation, to be held and enjoyed as aforesaid.

SEC. 106. Ferry privileges granted or obtained under the foregoing provisions, shall be leased in the same manner as common school lands, and the rents shall be collected and applied in the same manner and to the same objects as rents of land.

SEC. 107. When any public road, canal, or other public work, shall be laid out or constructed over or upon any common school land, so as to injure the same, or lessen the value thereof, damages shall be assessed and paid to the extent of the injury, to the trustees having the care and supervision of the land, for the use of the township interested; and the proceedings in assessing the damages shall be had under the laws of the State, providing for such assessments in reference to the lands of individuals or private corporations. The trustees having the charge or supervision of the land, shall be the party to the proceedings, representing the rights and interests of the townships or inhabitants represented. And the right of way for roads, canals and other public works, over and upon common school lands, shall and may be obtained by the proper authorities, by instituting proceedings against trustees; or trustees may obtain damages arising from the opening or using lands for any road, canal or other public improvement, under and according to the laws regulating the right of way.

Acts repealed.

SEC. 108. The following acts and parts of acts are hereby repealed:

"An act to prevent trespassing by cutting timber," approved, seventeenth February, one thousand eight hundred and nineteen, so far as it relates to sections number sixteen.

"An act relating to schools," approved, seventeenth February, one thousand eight hundred and twenty-seven.

"An act to prevent persons from trespassing on seminary

Act of Feb 17,
1819, repealed
Feb. 17, 1827.

- Jan. 26, 1826. and school lands," approved, twenty-sixth of January, one thousand eight hundred and twenty-six, so far as it relates to section number sixteen.
- Jan. 22, 1829. "An act authorizing the sale of section number sixteen, or such lands as may be granted in lieu thereof, to the inhabitants of such townships for the use of schools," approved, twenty-second of January, one thousand eight hundred and twenty-nine, and the act amending the same, approved, fifteenth of February, one thousand eight hundred and thirty-one.
- Mar. 1, 1833. "An act to provide for the application of the interest of the fund arising from the sale of school lands belonging to the several townships in this State," approved, first March, one thousand eight hundred and thirty-three.
- Feb. 12, 1833. "An act authorizing a credit on sales of school lands," approved, twelfth of February, one thousand eight hundred and thirty-three.
- Feb. 22, 1833. "An act confirming certain leases of school lands," approved, twenty-second February, one thousand eight hundred and thirty-three.
- Feb. 12, 1835. "An act providing for the security of the school funds," approved, twelfth February, one thousand eight hundred and thirty-five.
- Feb. 7, 1835. "An act to amend the act entitled 'An act to provide for the application of the interest of the fund arising from the sale of school lands belonging to the several townships in this State,'" approved, first March, one thousand eight hundred and thirty-three, approved, seventh February, one thousand eight hundred and thirty-five.
- Jan. 16, 1836. "An act to provide for the distribution and application of the interest on the school, college and seminary funds," approved, seventh February, one thousand eight hundred and thirty-five, and the act amending the same, approved, sixteenth January, one thousand eight hundred and thirty-six.
- Mar. 4, 1837. "An act to amend the several laws in relation to common schools," approved, fourth March, one thousand eight hundred and thirty-seven.
- Feb. 27, 1839. "An act in addition to the several acts authorizing and regulating the sale of school lands," approved, twenty-seventh February, one thousand eight hundred and thirty-nine.
- Feb. 16, 1839. "An act authorizing ferries on school lands, for the use of the inhabitants of townships," approved, sixteenth of February, one thousand eight hundred and thirty-eight, [1839.]
- Feb. 3, 1840. "An act further to amend the several acts in relation to common schools," approved, February third, one thousand eight hundred and forty.

Operation, construction and effect of this law.

Com'rs, &c. SEC. 109. School commissioners appointed heretofore, to continue. shall continue in office until superseded according to the pro-

visions of this act, and their duties, responsibilities and powers shall be governed by the provisions herein contained. Trustees of school lands heretofore appointed by county commissioners' courts, shall also continue to discharge the duties of their appointments, and shall hereafter be governed and bound by this act. Townships heretofore incorporated, shall, without any further action or proceeding, be considered as incorporated according to the provisions of this act, and the trustees and other officers shall continue to discharge their duties until superseded by elections or appointments, but the rights, powers and duties of all such officers shall be regulated by the provisions hereof. Leases of school lands shall remain valid, and be executed according to the laws under which they were made. Common school lands, valued and offered for sale, and remaining unsold, shall be sold upon the terms prescribed in this act. All contracts made under the laws hereby repealed, shall remain valid, and all rights, remedies, defences, and causes of action existing, or which may hereafter arise or exist under or by virtue of said repealed laws, shall continue and remain valid, and shall be enforced notwithstanding the repeal of said laws.

Rights & duties of officers.

Lands unsold.

Contracts declared valid.

Approved, February 26, 1841.



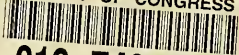
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